



PPG Industries, Inc. One PPG Place Pittsburgh, Pennsylvania 15272  
Voice (412) 434-2834 Fax (412)-434-2800

**Raymond L. Finocchio**  
Marketing and Sales Manager  
Fine Chemicals

**February 18, 1999**

Mr. Randal Tomblin  
Cedar Chemical Co.  
5100 Poplar Avenue  
Suite 2414  
Memphis, TN 38137

Dear Randal:

Well, we finally did it. Enclosed are two originals of our DCPI Tolling Agreement, signed by Tom Von Lehman. Please note that the new pages, which were added to the Agreement since the time that you signed it, need to be initialed by you. These pages are located at the end of the document and are titled as Schedule 1.1A, Converted Product Specifications (1 page), Schedule 1.1B, DCA Specifications (1 page), Section 4.4.1, DCA Sampling Procedure (4 pages) and Section 4.4.2, Converted Product Sampling/Analytical Procedure (4 pages). Please initial each of these pages to signify your acceptance, and send one original back to me.

Thank you for your help and patience on this, Randal. I'm excited about our relationship, and look forward to DCPI becoming a commercial reality.

Please let me know if you have any questions.

Best regards,

A handwritten signature in black ink, appearing to read 'Ray', written over the printed name.

R. L. Finocchio

Enclosure

9352031



**PPG - CEDAR  
DCPI TOLLING AGREEMENT**

THIS AGREEMENT is made between PPG INDUSTRIES, INC. ("PPG"), a Pennsylvania corporation having its principal place of business at One PPG Place, Pittsburgh, Pennsylvania 15272, and CEDAR CHEMICAL CORPORATION ("Cedar") a Delaware corporation having its principal place of business at Clark Tower, 5100 Poplar Avenue, Memphis, Tennessee 38137.

Cedar wishes to supply 3,4 - dichloroaniline to PPG and have PPG convert the 3,4 - dichloroaniline into 3,4 - dichlorophenylisocyanate for Cedar. The purpose of this Agreement is to set forth the mutual undertaking of PPG and Cedar regarding the manufacture of 3,4 - dichlorophenylisocyanate by PPG for Cedar. Therefore, intending to be legally bound, PPG and Cedar agree as follows:

**SECTION 1. DEFINITIONS**

1.1 **Definitions.** As used in this Agreement, the following terms have the meanings as defined as follows:

"Agreement" means this Tolling Agreement, all schedules attached hereto, and all amendments, supplements and modifications hereto and thereto.

"Buyer" means Cedar.

"Capital Recovery Amount" means 9/12ths of Seller's actual documented expenditures for designing, engineering, constructing and installing the Production Facility, provided, however, the Capital Recovery Amount shall not exceed \$9,000,000.00.

"Contract Year" means each consecutive calendar year during the term hereof beginning with the calendar year during which the Operative Date occurs except as provided below. The first Contract Year shall begin as soon as possible after the Operative Date occurs taking into consideration any then outstanding Buyer purchase obligations for the Converted Product to third-parties but in any event within thirty (30) days of the occurrence of the Operative Date, subject to the following. By November 30, 1999, Seller, in

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writing, shall advise Buyer whether or not the Operative Date will occur by March 31, 2000, including in said notice the anticipated Operative Date. If per Seller's notice the anticipated Operative date will occur on or before March 31, 2000, the calendar year 2000 shall be considered the first Contract Year, and Seller shall be obligated to supply Buyer's requirements for Converted Product in accordance with the terms herein following the anticipated Operative date specified in Seller's notice. If per Seller's notice the anticipated Operative Date will occur after March 31, 2000, then Buyer by written notice given to Seller by January 1, 2000, may elect to defer the beginning of the first Contract Year to a later date not to be later than January 1, 2001.

"Converted Product" means 3,4 - dichlorophenylisocyanate produced by PPG using the DCA and conforming to the specifications set forth in attached Schedule 1.1A.

"DCA" means 3,4 - dichloroaniline supplied by Buyer to Seller and which conforms to the specifications set forth in attached Schedule 1.1B.

"Effective Date" means the last to occur of the date on which this Agreement is signed by Seller or Buyer.

"Nonvariable Costs" means the following types of costs incurred by Seller in connection with the operation of the Production Facility: direct labor, maintenance, insurance, depreciation, and plant overhead.

"Operative Date" means the date upon which construction and installation of the Production Facility has been demonstrated to be able to produce therefrom the Converted Product at a minimum monthly rate of 250,000 pounds.

"Production Facility" means the facilities of Seller to be located at Seller's Fine Chemicals' LaPorte, Texas facilities to be operated/used by Seller to process for Buyer Buyer supplied DCA into the Converted Product. The Production Facility will have a name plate production capacity of 8,000,000 pounds per year of the Converted Product.

"Seller" means PPG.

## **SECTION 2. AGREEMENT TERM**

2.1 This Agreement shall become effective on the Effective Date and shall continue thereafter for an initial delivery term of ten (10) consecutive Contract Years following the Operative Date and shall continue thereafter unless or until terminated by either party, by written notice, provided to the

other at least seven hundred and thirty (730) days prior to the end of the tenth (10th) Contract Year of the initial delivery term or of the end of any subsequent Contract Year, of its intention to terminate, or unless this Agreement is otherwise earlier terminated as provided in this Agreement.

2.2 A precondition to Seller's obligations set forth in this Agreement is that Seller obtains requisite approval from its appropriate management authorities for the capital required for the engineering, construction and installation of the Production Facility. In the event Seller does not obtain such approval and notify Buyer thereof in writing by December 31, 1998, this Agreement shall then immediately terminate without any liability being incurred by either party to the other or any obligation continuing hereunder between the parties after said termination. Seller's management authorities may refuse to approve the Production Facility capital expenditure in their absolute and sole discretion.

### **SECTION 3. PRODUCTION FACILITY**

3.1 Construction. Promptly after approval by Seller's management authorities of the capital expenditure required for the Production Facility, Seller shall design, permit, construct, install and prepare for operation and production of the Converted Product the Production Facility. The Production Facility shall be designed to produce 8,000,000 pounds per year of the Converted Product. Seller shall use all reasonable efforts to have the Production Facility constructed, installed, and ready for production by December 31, 1999. Seller shall keep Buyer advised on a continuous basis of the status of the installation and construction of the Production Facility, and Seller shall notify Buyer, in writing, of the date upon which the construction and installation has been completed and the Production Facility is prepared to accept DCA and produce therefrom the Converted Product, which notice shall be accompanied by a reasonably detailed summary of Seller's costs incurred for designing, engineering, constructing and installing the Production Facility together with reasonably detailed documentation of such costs.

3.2 Use. Seller shall be free to use any of the Production Facility capacity for itself or any other party which is not reserved or taken hereunder by Buyer for the production of the Converted Product; provided, however, given the Capital Recovery Amount to be paid by Buyer to Seller, during the term of this Agreement Seller, without Buyer's prior consent, shall not use the Production Facility to knowingly manufacture and sell to third parties isocyanates for use as a raw material for the production of any herbicide product competitive to Buyer's diuron. In the event Seller shall unknowingly manufacture and sell to a third party isocyanates which are used in the manufacture of products competitive to diuron or which are used in the

manufacture of diuron itself, Seller following written notice from Buyer of such activities shall cease such activities as soon as possible in light of Seller's then existing contractual or other legally binding obligations to the other party(s). Seller, as needed, shall consult with Buyer to ensure any contemplated use of the Production Facility to produce isocyanates for third parties will not cause Seller to violate the foregoing restriction on use of the Production Facility.

#### **SECTION 4. QUANTITIES**

4.1 **Requirements.** Subject to the terms of this Agreement, Buyer shall supply DCA to Seller in such quantities sufficient for Seller to produce those quantities of Converted Product ordered by Buyer hereunder at the ratio specified in Section 4.3, and Seller using DCA supplied by Buyer shall toll manufacture and supply to Buyer during each Contract Year one hundred percent (100%) of Buyer's requirements of the Converted Product except as specified in Sections 4.1.1 and 4.1.2.

4.1.1 Unless otherwise mutually agreed, in writing, production and supply of the Converted Product shall be in reasonably uniform monthly quantities, and Seller's maximum supply obligation during each Contract Year shall be 8,000,000 pounds of the Converted Product (with said maximum supply obligation being prorated for the first Contract Year based on the number of calendar months in the first Contract Year).

4.1.2 For purposes of Section 4.1, Buyer shall not be required to obtain from Seller under this Agreement any quantities of the Converted Product required by Buyer which Buyer can produce at production facilities which as of the date of this Agreement are wholly owned by Buyer or owned by any entity which is owned or controlled by Buyer's parent company.

4.2 **Take-or-Pay Minimum.** Buyer agrees to order from Seller hereunder at least 3,000,000 pounds of the Converted Product each Contract Year or to pay to Seller for any shortfall in the aforesaid minimum Contract Year quantity at the pricing for the Converted Product set forth in Section 5.1; provided, however, Buyer shall not be responsible to obtain or pay for any shortfall in the aforesaid minimum caused by a failure of Seller to produce and deliver in accordance with the terms of this Agreement quantities of the Converted Product ordered by Buyer; and provided further that Buyer shall order from Seller 25,000,000 pounds of Converted Product during the first five (5) Contract Years of this Agreement and 25,000,000 pounds of Converted Product during the second five (5) Contract Years of this Agreement, and Buyer shall pay to Seller for any shortfall in said minimum quantity to be ordered by Buyer during the first five (5) Contract Years and/or the second five (5) Contract Years of this Agreement at the pricing for the Converted Product set

forth in Section 5.1 payable in thirty (30) days following the fifth and/or tenth Contract Year of this Agreement, as applicable.

4.3 DCA. Seller's obligation to produce and supply Buyer with the Converted Product shall be subject to Buyer having delivered to Seller quantities of DCA, free of charge F.O.B. the Production Facility, in the ratio as specified in Section 4.3.1 below of pounds of DCA (100% basis) for each pound of the Converted Product (100% basis) to be supplied; Seller's measurement of DCA received and used shall govern unless shown to be in error. In the event Buyer delivers DCA which Seller become aware of does not conform to the specifications of Schedule 1.1B, Seller shall notify Buyer whereupon Buyer, at its sole cost, shall be responsible for removing and reworking or disposing of such nonconforming DCA, and replacing the nonconforming DCA with DCA meeting the specifications of Schedule 1.1B.

4.3.1 During the first Contract Year DCA shall be delivered by Buyer to Seller in the ratio of 0.95 pounds of DCA (100% basis) for each pound of the Converted Product (100% basis) to be supplied. The delivery ratio for DCA to Converted Product for the second and subsequent Contract Years shall be the actual conversion average ratio for the immediately preceding Contract Year (for example, the actual conversion average ratio for the first Contract Year will govern during the Second Contract Year, and that actually realized in the second Contract Year will govern during the third Contract Year), provided however, in no event will the applicable conversion ratio of DCA to Converted Product in any Contract Year be greater than the most efficient actual conversion ratio demonstrated for any preceding Contract Year. Subject to the foregoing, if the actual conversion average ratio for a Contract Year is less than that governing during that Contract Year, then Seller and Buyer shall share on a 50%/50% basis the savings resulting therefrom.

4.4 Sampling and Analysis. All DCA supplied by Buyer and all Converted Product produced by Seller and delivered to Buyer shall be sampled and analyzed in accordance with the procedures set forth herein.

4.4.1 DCA. Buyer shall sample and analyze all DCA delivered to Seller for use hereunder in accordance with those procedures set forth in Schedule 4.4.1. Each shipment of DCA delivered by Buyer to Seller shall be accompanied by a certificate of analysis confirming that such DCA meets the specifications of Schedule 1.1B.

4.4.2 Converted Product. Seller shall sample and analyze all Converted Product produced for and delivered to Buyer hereunder in accordance with those procedures set forth in Schedule 4.4.2. Each delivery of Converted Product to Buyer shall be accompanied by a certificate of analysis

confirming that such Converted Product meets the specifications of Schedule 1.1A.

4.5 Quantity Notifications. At least thirty (30) days prior to the first day of the first Contract Year and at least ninety (90) days prior to the first day of each subsequent Contract Year, Buyer, for planning purposes, shall give Seller a written forecast of Buyer's estimated requirements for the Converted Product under this Agreement for each calendar quarter during the Contract Year following the notification date. Also, at least ten (10) days prior to each calendar quarter, Buyer shall provide Seller with an updated forecast of its requirements for the upcoming calendar quarter. Each such updated forecast shall be treated as Buyer's firm order for the quantity of Converted Product specified therein for such calendar quarter.

## **SECTION 5. PRICE AND PAYMENT**

5.1 Conversion Fee. Subject to adjustment as provided in this Agreement, Buyer shall pay to Seller a Conversion Fee for each pound of Converted Product furnished hereunder, F.O.B. the Production Facility, freight prepaid and added, and for any shortfall in quantity for a Contract Year from Buyer's take-or-pay minimum obligation set forth in Section 4.2, in accordance with the following (with the per pound Conversion Fees applying on an incremental basis to the Converted Product pounds in each bracket, and not to the first pound):

<u>Aggregate Contract Year Pounds</u>	<u>Conversion Fee/ Pound</u>
0 - 5,000,000	\$ 0.87
5,000,001 - 8,000,000	\$ 0.75
8,000,001 and above	\$ 0.62

5.2 Conversion Fee Adjustments. The Conversion Fees set forth in Section 5.1 shall be subject to the following adjustments:

5.2.1 Production Costs. The Conversion Fees shall be escalated or de-escalated, as applicable, by Seller on January 1, 2000 and as of each January 1 and July 1 thereafter during the term of this Agreement (with Seller giving Buyer notice, in writing, of such change at least fifteen (15) days prior to the effective date thereof) to reflect changes, if any in the costs paid by the Fine Chemicals Business Unit of Seller for raw materials (other than the DCA) and labor required for the operation of the Production Facility and the production thereat of the Converted Product in accordance with the formula set forth in attached Schedule 5.2.1.

**5.2.2 Capital Recovery Amount.** During each of the first ten (10) Contract Years Buyer shall pay to Seller one-tenth (1/10th) of the Capital Recovery Amount. Each Contract Year payment shall be invoiced by Seller in equal installments at the end of each calendar quarter during the Contract Year (the installments for invoicing purposes being based on the number of calendar quarters in the applicable Contract Year) with Seller's invoice being payable by Buyer in cash within thirty (30) days of the invoice date.

**5.2.3 Nonvariable Costs Sharing.** If, during a Contract Year, Seller is able to produce at and sell from the Production Facility isocyanates other than the Converted Product for/to other than Buyer, and thereby reduce Seller's per pound Nonvariable Costs for that Contract Year for the production of Converted Product for Buyer, Seller shall share such Nonvariable Costs savings with Buyer as follows: if the third-party isocyanates order is procured by Buyer, Buyer shall receive fifty percent (50%) of the Nonvariable Costs savings resulting therefrom; or, if the third-party isocyanates order is independently obtained by Seller, then Buyer shall receive thirty-three percent (33%) of the Nonvariable Costs savings resulting therefrom. Within thirty (30) days after the end of each Contract Year Seller shall pay to Buyer the amount of the Nonvariable Costs Savings earned, if any, by Buyer during the just completed Contract Year.

**5.2.4 Audit Rights.** If Buyer requests, Seller shall make available to Buyer's independent public accountant or auditor to whom Seller has no reasonable objection such books and records of Seller as shall be necessary to permit such accountant or auditor to verify the correctness of Seller's calculations of any of the adjustments, charges or savings as are covered by this Section 5.2. Such accountant or auditor shall report to Buyer only its conclusion as to whether the adjustments, charges or savings were correct, and if not correct what the adjustment, charges or savings should have been; but the accountant or auditor shall not divulge to Buyer actual costs or any other information obtained in the course of his/her analysis. All costs and expenses related to such independent analysis shall be borne by Buyer, unless Seller's calculations are found to be in error by more than two percent (2%) in which case Seller shall bear the reasonable and documented costs of the independent accountant or auditor.

**5.3 Terms of Payment.** Seller shall invoice Buyer at the end of each calendar month during the term hereof for all Converted Product ordered by Buyer for delivery, and produced and delivered to Buyer by Seller in such month. Any shortfall in Buyer's take-or-pay minimum in accordance with Section 4.2 shall be invoiced at the end of such Contract Year. Terms of payment shall be net cash (in United States dollars) within thirty (30) days



from the date of Seller's invoice. Payment terms shall be subject to continued credit worthiness/financial condition evaluation; if in Seller's reasonable good faith judgment Buyer's credit/financial condition becomes materially impaired, Seller may, upon reasonable notice to Buyer, revise such payment terms for the purpose of providing reasonable assurance that it will collect its fees invoiced hereunder.

## **SECTION 6. DELIVERY**

6.1 DCA. DCA shall be delivered by Buyer, at its sole cost, F.O.B. the Production Facility.

6.2 Converted Product. Unless otherwise mutually agreed to from time to time, in writing, the Converted Product shall be delivered F.O.B. the Production Facility, in bulk, in transportation equipment owned, controlled or arranged for by Seller. No reconsignment of any transportation equipment of Seller shall be made and same shall be immediately returned to Seller after the Converted Product has been removed therefrom in as good condition as received, reasonable wear and tear excepted. Demurrage or extra detention charges on such equipment of Seller are for Buyer's account.

## **SECTION 7. TITLE & TAXES**

7.1 Title. Title to all DCA provided by Buyer to Seller and title to all Converted Product produced for Buyer hereunder at all times shall remain in Buyer. Seller shall maintain the DCA and the Converted Product in a safe and secure manner and place, free of liens and other encumbrances, and shall be responsible for handling and safekeeping of the DCA and the Converted Product until delivery thereof to Buyer, and Seller shall not commingle Buyer's DCA or Converted Product with the same or similar products owned by Seller or by any third party. Seller shall bear the risk of loss of DCA at its LaPorte, Texas plant in excess of the conversion ratio specified in Section 4.3.1 of this Agreement, and in the event of loss or excess usage of DCA, Buyer, at Seller's cost, shall furnish replacement DCA therefor, meeting the specifications set forth in attached Schedule 1.1B and delivered in accordance with such delivery schedule as shall permit Seller to produce and deliver Buyer's then outstanding purchase orders for the Converted Product in timely manner; the price to Seller for the replacement DCA shall be at Buyer's then prevailing DCA production cost as determined from Buyer's books and records.

7.1.1 Upon termination of this Agreement, unless otherwise mutually agreed to by Seller and Buyer, within thirty (30) days of such termination Seller shall return to the Buyer, at Buyer's cost, any DCA

remaining in the possession of Seller which has not been processed into or used for the production of the Converted Product.

7.1.2 Seller shall provide Buyer with a monthly inventory and production report indicating quantities of DCA and Converted Product on hand at the beginning of the month, received or produced during the month, used or delivered during the month, and on hand at the end of such month.

## 7.2 Taxes.

7.2.1 Buyer will assume responsibility and pay for all ad valorem taxes, such as personal property taxes, assessed against and imposed by any governmental authority with respect to any DCA/Converted Product in Seller's custody, the manufacture or use of which in manufacturing is provided for by this Agreement. If Seller should receive a tax assessment notice applicable hereunder, Seller promptly shall notify Buyer and Buyer shall assume full responsibility therefor. Further, any other tax, duty or other governmental charge, or increase thereof, upon the production, conversion and/or shipment of the Converted Product (other than taxes based upon Seller's income), or entering into the costs thereof, imposed, or becoming effective, on or after the date of this Agreement, shall be added to the price then in effect hereunder and shall be paid by Buyer.

7.2.2 Buyer represents that the Converted Product is to be reacted with other materials and the resultant product resold to Buyer's customers in the ordinary course of its business. In that regard, Buyer shall supply Seller with an exemption certificate as may be required for state, local and federal sales and use tax exemption purposes.

## **SECTION 8. MISCELLANEOUS**

8.1 TSCA. Buyer agrees that all DCA supplied under this Agreement and all the Converted Product to be produced under this Agreement will be appropriately registered under all applicable environmental, health and safety laws, such as the Inventory maintained by the U.S. Environmental Protection Agency pursuant to the Toxic Substances Control Act, 15 U.S.C. §2601, et. seq. Buyer agrees to indemnify, defend and to hold Seller harmless from any claims, fines, penalties, or other damages, including reasonable attorney's fees, related to Buyer's breach of its aforesaid agreement.

8.2 Assignment. This Agreement is not assignable, in whole or in part, by either party without the prior written consent of the other (which consent shall not be unreasonably withheld), and any attempted assignment without such consent, whether by operation of law or otherwise, shall be void. Subject

to the foregoing, this Agreement shall bind and inure to the benefit of the successors and assigns of the respective parties hereto.

8.3 Responsible Care®. Seller is committed to the principles set forth in the Responsible Care initiative developed by and for members of the Chemical Manufacturers Association of the U.S.A. The goal of the initiative is to minimize adverse effects from chemical products on human health and the environment through adherence to safe and environmentally sound management practices. Seller has developed corporate guidelines to address these issues. Seller and Buyer agree to work together towards the goal of safe storage, handling, distribution, use and disposal of the Converted Product. Buyer agrees that it and its employees, agents and contractors will handle the Converted Product in a safe and appropriate manner. Buyer will adequately train all of its employees, agents and contractors with respect to the use and handling of the Converted Product, and it will promptly notify Seller in the event of any reportable spills/releases of the Converted Product.

8.4 General Terms. The attached General Terms for Tolling Agreement form a part of this Agreement as if recited at length over the signatures hereto affixed.

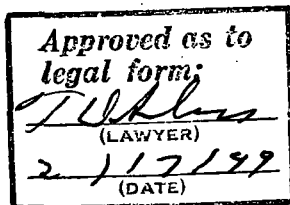
The parties hereto have executed this Agreement as of the date(s) set forth below:

PPG INDUSTRIES, INC.  
("Seller")

By: Thomas Van Lehman  
Name: (Print): Thomas Van Lehman  
Title: Vice President  
Date: 2/18/99

CEDAR CHEMICAL CORPORATION  
("Buyer")

By: J. R. Tomblin  
Name: (Print): J. R. Tomblin  
Title: Pres.  
Date: Oct 29, 1998  
Set 25, 1999



**GENERAL TERMS  
FOR  
TOLLING AGREEMENT**

**Default:** Each delivery hereunder shall be deemed to constitute a separate transaction, without reference to any other shipment. If either party be in default with respect to any of the terms or conditions of this Agreement with the other party, including, without limitation, Buyer's failure to pay any invoice in accordance with the terms hereof, the other party may, at its option, defer further performance hereunder until such default be remedied, and, without prejudice to any other legal remedy, may terminate this Agreement if such default be not remedied within thirty (30) days following the giving of written notice thereof to the party in default, specifying the thing or matter in default.

**Warranty and Limitation of Remedy:**

(a) All claims relating to quality, quantity, weight, condition and loss of or damage to the Converted Product or DCA contained in any delivery hereunder will be deemed waived unless made in writing within sixty (60) days from arrival of such delivery at the affected party's place of business.

(b) Buyer warrants only that the quality of the DCA delivered to PPG shall conform to the specifications set forth in attached Schedule 1.1B. Except as stated in "Patents", Seller warrants only its title to Converted Product and that the quality of Converted Product shall conform to specifications set forth in attached Schedule 1.1A if, and only if, Buyer has delivered to Seller DCA conforming to specifications in accordance with Schedule 1.1B. THESE ARE THE ONLY REPRESENTATIONS OR WARRANTIES SELLER OR BUYER MAKES TO THE OTHER CONCERNING THE DCA AND CONVERTED PRODUCT AND ALL OTHER EXPRESS OR IMPLIED WARRANTIES, UNDER STATUTE OR ARISING OTHERWISE IN LAW FROM A COURSE OF DEALING OR USAGE OF TRADE, INCLUDING WITHOUT LIMITATION, ANY OTHER WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR USE, ARE DISCLAIMED BY EACH. IN THE EVENT ANY CONVERTED PRODUCT FAILS TO CONFORM TO THE SPECIFICATIONS SET FORTH IN SCHEDULE 1.1A SELLER'S EXCLUSIVE OBLIGATION AND BUYER'S EXCLUSIVE REMEDY SHALL BE LIMITED TO, AT SELLER'S OPTION, REPLACEMENT OF THE NONCONFORMING CONVERTED PRODUCT AT SELLER'S EXPENSE, OR A REFUND OF THE CONVERSION FEE ATTRIBUTABLE TO A SPECIFIC DELIVERY AS TO WHICH A CLAIM IS MADE AND TRANSPORTATION CHARGES THEREON PLUS REIMBURSEMENT OF THE COST OF THE DCA CONTAINED THEREIN. IN THE EVENT THE DCA FAILS TO CONFORM TO THE SPECIFICATIONS SET FORTH IN SCHEDULE 1.1B, BUYER'S EXCLUSIVE OBLIGATION AND SELLER'S EXCLUSIVE REMEDY SHALL BE LIMITED TO REPLACEMENT OF THE NONCONFORMING DCA



AT BUYER'S EXPENSE (INCLUDING BEING RESPONSIBLE FOR THE DISPOSAL OF THE NONCONFORMING DCA), OR IF THE NONCONFORMING DCA WAS USED BY SELLER TO PRODUCE CONVERTED PRODUCT (EXCEPTING USE OF NONCONFORMING DCA WITHOUT BUYER'S CONSENT WHICH DCA WAS KNOWN BY SELLER TO BE NONCONFORMING), THEN BUYER SHALL ACCEPT SUCH PRODUCED CONVERTED PRODUCT AND PAY TO SELLER THE CONVERSION THEREFOR. EXCEPT AS PROVIDED IN THIS SUBSECTION, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER UNDER ANY THEORY OF RECOVERY (WHETHER BASED ON NEGLIGENCE OF ANY KIND, STRICT LIABILITY OR TORT) FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED, ARISING FROM OR RESULTING FROM ANY USE MADE OF THE CONVERTED PRODUCT OR DCA.

(c) Recommendation of Seller for use of the Converted Product is based on tests believed to be reliable, but Seller makes no warranty of the results to be obtained. Buyer assumes all responsibility and risk and liability arising from: (1) the transportation, unloading, discharge, storage, handling and use of the Converted Product, including use thereof alone or in combination with other substances after delivery to Buyer; (2) the improper functioning or failure of unloading, discharge, transportation or storage systems equipment used by Buyer, whether furnished or recommended by Seller or not; and, (3) Buyer's failure to comply with federal, state and municipal laws, rules, and regulations governing unloading, discharge, storage, handling and use of Converted Product; except to the extent caused by Seller's negligence or breach of Seller's undertakings hereunder.

(d) Seller assumes all responsibility and risk and liability for, and agrees to indemnify and defend Buyer and save it harmless against all claims for personal injury or death or property damage by third parties arising out of Seller's operation of the Production Facility for the manufacture of Converted Product or arising out of Seller's storage and handling of DCA and Converted Product at the Production Facility, or arising out of Seller's treatment, transportation and disposal, whether at the Production Facility or at some other site, of wastes generated as a result of Seller's services hereunder; provided, however, this indemnification, defend and hold harmless obligation of Seller shall not apply to any claims arising out of the possession, storage, handling or use of the Converted Product after delivery thereof by Seller to Buyer (as such matters are covered by paragraph (b) and (c) immediately preceding this paragraph (d)).

Force Majeure: Seller's inability to make, or Buyer's failure or inability to take, any delivery or deliveries when due, or the inability of either party to effect timely performance of any other obligation required of it hereunder, other than the payment of money, if caused by "Force Majeure", as hereinafter defined, shall not constitute a default hereunder or subject the party affected by Force Majeure to any liability to the other; provided, however, the party so affected shall promptly notify

the other of the existence thereof and of its expected duration and the estimated effect thereon upon its ability to perform its obligations hereunder. Such party shall promptly notify the other party when such Force Majeure circumstances has ceased to affect its ability to perform its obligations hereunder. The quantity to be delivered hereunder shall be reduced to the extent of the deliveries omitted for such cause or causes unless both parties agree that the total quantity to be delivered shall remain unchanged and to the extent any such reduction shall cause a shortfall in Buyer's minimum quantities specified in Section 4.2 of the Agreement, the take-or-pay minimums of Section 4.2 shall be reduced by the amount of shortfall caused by the quantity reduction hereunder. During the time that Seller is unable to make deliveries or otherwise perform, it shall not be obligated to procure, or to use its best efforts to procure, any quantity of Converted Product sold hereunder from any alternate producer or supplier. As used herein, the term "Force Majeure" shall mean and include any act of God, nature or the public enemy, accident, explosion, flood, drought, perils of the sea, strikes, lockouts, labor disputes, riots, sabotage, embargo, war (whether or not declared and whether or not the United States is a participant), federal, state or municipal legal restriction or limitation or compliance therewith, failure or delay of transportation, shortage of, or inability to obtain raw materials, supplies, equipment, fuel, power, labor, or other operational necessity, interruption or curtailment of power supply, or any other circumstance of a similar or different nature beyond the reasonable control of the party affected thereby. In this connection, a party shall not be required to resolve labor disputes or disputes with suppliers of raw materials, supplies, equipment, fuel or power, or seek alternate sources thereof except in accordance with such party's business judgment as to its best interest. It is further agreed that, if through no fault of Buyer, the U.S. Environmental Protection Agency shall cancel or suspend (for a period of at least six (6) consecutive months) the principal registered uses of diuron pesticide registrations and Buyer after making reasonable efforts is unable to obtain a revocation/reversal of any such cancellation or suspension, then Buyer shall be entitled to terminate this Agreement effective immediately upon written notice to Seller, whereupon Buyer shall have no further obligation to order or pay for Converted Product; but Buyer shall remain obligated to pay to Seller the then outstanding balance of the Capital Recovery Amount, which outstanding balance shall be paid to Seller in quarterly installments as if the Agreement had not been terminated; provided, however, in that event, Seller shall assist in the mitigation of Buyer's costs by making the Production Facility available to Buyer for the production of such additional products and on Buyer's behalf in accordance with such terms and conditions as the parties hereto shall negotiate in good faith and mutually agree upon in writing, and further, if Seller enters into other business utilizing the Production Facility, then Buyer shall be relieved of any obligation for said payments during such additional business period except to the extent that the new business does not provide a similar financial return (costs and profit, including capital recovery for the Production Facility) to Seller.

**Patents:** Seller warrants that its method of production of Converted Product delivered by it hereunder will not infringe any U.S. patent covering the production of Converted Product. Seller does not warrant against infringement by, and assumes no responsibility by reason of, the use of the Converted Product alone or in combination with other materials or apparatus or in the operation of any process or apparatus. Seller disclaims any warranty against infringement to the extent that the Converted Product is supplied according to Buyer's design or specifications. Purchase of the Converted Product hereunder shall not be deemed to grant Buyer an immunity under any of Seller's patents relating to the use of the Converted Product in combination with other materials or apparatus or in the operation of any process or apparatus.

In the event of the commencement of any suit or proceeding against Buyer for infringement covered by the above warranty, Buyer shall notify Seller promptly, in writing, of the commencement of such suit or proceeding. Seller, at its option, may defend such suit or proceeding in Buyer's name; and Buyer will render to Seller all reasonable assistance for the defense or settlement thereof. Buyer shall not settle or compromise any such suit or proceeding without the prior written consent of Seller.

**Fair Labor Standards Act:** Seller agrees that Converted Product shipped hereunder will have been produced in compliance with the Fair Labor Standards Act of 1938, as amended.

**Waiver:** The failure of either party to enforce at any time any of the provisions of this Agreement shall in no way constitute or be construed as a waiver of that or any other provision hereof or the right of such party to enforce thereafter each and every provision of this Agreement. No waiver of any provision or breach of this Agreement shall be deemed to be a waiver of any other provision or breach.

**Governing Law:** This Agreement and the relations of the parties hereunder shall be governed by the local laws of the Commonwealth of Pennsylvania (without giving effect to the conflict of law principles thereof).

**Notice:** Any notice, advice or communication to be given to Seller hereunder shall be in writing and shall be served (i) three (3) business days after being deposited in the United States mail in a sealed envelope with sufficient postage affixed, registered or certified, (ii) upon receipt if served by facsimile, or (iii) upon receipt if served in person, in all cases addressed to Seller as follows:

PPG Industries, Inc.  
One PPG Place  
Pittsburgh, PA 15272  
Attention: General Manager,  
Fine Chemicals

Any notice, advice or other communication to be given to Buyer hereunder shall be deemed sufficiently served when like procedure is followed, except that Buyer shall be addressed, as follows:

Cedar Chemical Corporation  
5100 Poplar Avenue  
24 th Floor  
Memphis, Tennessee 38137  
Attention: J. Randal Tomblin,  
President

or to such other address or person as either party may hereafter specify by notice, in writing, to the other.

Entire Agreement: This Agreement, including all documents referenced herein, contains the entire agreement of the parties with regard to the subject matter hereof and supersedes any prior communications, commitments, representations or warranty relating to the subject matter hereof. No modification of this Agreement shall be of any force or effect unless reduced to a writing which specifically references this Agreement and is signed by the parties claimed to be bound thereby, and no modification shall be effected by any purchase order forms, acknowledgment forms, shipping documents, or other documents containing terms or conditions at variance with or in addition to those set forth in this Agreement.



## **SCHEDULE 1.1A**

### **CONVERTED PRODUCT SPECIFICATIONS**

3,4-dichlorophenyl isocyanate      98.7 % minimum

2,3-dichlorophenyl isocyanate      0.9 % maximum

monochlorobenzene & tars      0.4 % maximum

TN  
TPI  
Rt

## **SCHEDULE 1.1B**

### **DCA SPECIFICATIONS**

3,4-dichloro aniline	98.3 % minimum
2,3-dichloro aniline	0.8 % maximum
Water	0.05 % maximum
Other	0.85 % maximum

TN  
TDA  
SRT

## **SCHEDULE 4.4.1**

### **DCA SAMPLING/ANALYTICAL PROCEDURE**

The following is the procedure for sampling DCA trucks for shipments off-site:

SOURCE: Truck

PPE: Rubber safety shoes, rainsuit, rubber gloves, facemask with GMC canister and hard hat.

#### **PROCEDURE:**

- a. Put on the appropriate PPE. Verify that the nearest safety shower is working properly.
- b. Tie some string around the neck of a 4-oz sample bottle for retrieving a sample from the top of the trailer. Before climbing the truck to take the sample, have another operator stand and watch to help in case of an emergency.
- c. After the truck has been loaded, verify that any residual pressure in the truck has been vented off. Open the dome on the top of the trailer.
- d. Lower the sample bottle into the DCA and fill it completely. Lift it back out of the trailer, cap it, and set it aside. Close the dome on the trailer and secure it.
- e. Purge the trailer with nitrogen to remove the air that entered while the dome was open.

Note: Try to minimize the amount of time the dome is open without being unsafe. Contact with moisture in the air reduces the quality of the product.

- f. Clean the sample bottle and carry it to the lab.

HOUSEKEEPING: Spills must be allowed to solidify. Scrape up the solids and place them in a properly labeled hazardous waste drum. Complete the cleanup by scrubbing the area with hot, soapy water and rinsing with water.

TR  
DCA  
Rt

**" DCA Final Assay "**

Revision B

DATE: \_\_\_\_\_

Laboratory Manager

Load the method setpoints according to the Quick Reference sheet. GC-7 should be calibrated 1/6 months by the Laboratory Manager or Dayshift analyst using FID-1.

**A. Analytical Conditions**

1. HP 5890 Gas Chromatograph, 3396 integrator
2. Column - 25 meter x .25 mm x .5 micron DB-5 or HP-5
3. Oven Temperature - 190 - 300 deg C at 40 deg / minute after 2.0 minute initial hold. Final time - 16 minutes.
4. Injector/Detector 275 - 300 degrees
5. Hydrogen 35 mls/min. , Air - 350 mls./min.
6. Pressure 20 psi - Helium, Split flow 60 mls./minute Helium
7. HP inverted cup packed split liner packed with 1/4" 10% SP-2100. Deactivated glass wool is used.

**B. Sample Analysis**

1. Add 4-6 drops of the DCA product layer into a 4 ml. vial and make up with HPLC MECL2 and mix well.
2. Inject 1 ul of the above solution into the G.C. at the above conditions and push start on the integrator.
3. This scan needs to run only 10 minutes for the DCA distillation/final samples. Under normal conditions, TCAB should be the last component in the scan at around 7.6 minutes. For less pure samples from the process, allow the scan to run out to 20 minutes.
4. Compare the chromatograph you receive against the standard and report the area % for the known components. Run the sample in duplicate if the material is for final DCA sales.
5. Enter the results on the LIMS and report to Operations the information below as needed. If any of the results are non-conforming refer to GLP-3.

TA  
TPA  
St

### Current Response Factors

6. Report -	A. 3,4 DCA	1.00
	B. 2,3 DCA	1.00
	C. TCAB	1.00
	D. Heavies	1.00
	E. Lights	1.00

Revision: B

Operations the information below as needed. If any of the results are non-conforming refer to GLP-3.

### Current Response Factors

7. Report -	A. 3,4 DCA	1.00
	B. 2,3 DCA	1.00
	C. TCAB	1.00
	D. Morpholine	1.50
	E. Heavies	1.00
	F. Lights	1.00

TW  
JPA  
RL

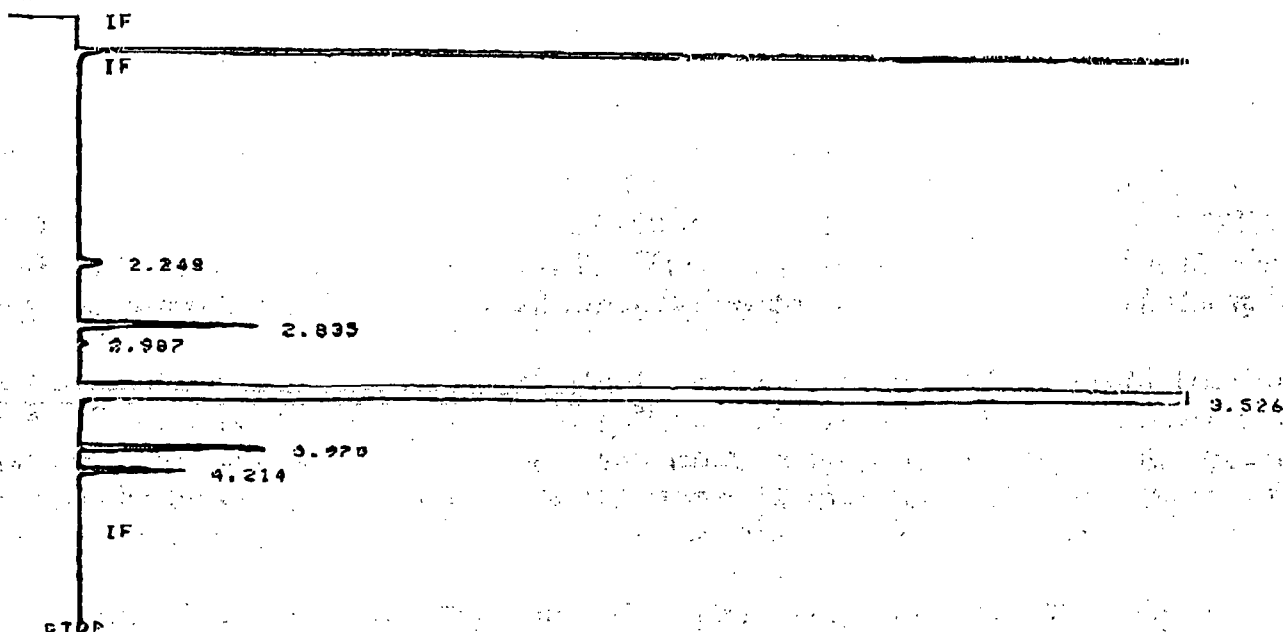
Analytical Method DCA-4

09-53-1

" DCA Final Assay "

Revision: B

Page 3 of 3

\*  
BREAK\*  
BREAK\* RUN #24897 OCT 29, 1998 00:27:28  
START: not ready

from starting signal to M-SIGNAL - PAW  
 TEMPTED WRITE PAST END OF FILE

LINE 24297 OCT 29, 1998 00:27:28

SAMPLE NAME: DCA  
 3D HYDRO 98-32

## JRM-AREA

RT TYPE	AREA	WIDTH	HEIGHT	CALC	AMOUNT	NAME
2.248 PB	15831	.044	3933		.147	2,4 MChloro Alilini
2.835 BB	91959	.037	41462	5R	.052	2.8 DCA
2.987 BB	4301	.042	1738		.042	2.5 DCA
3.526 PB	10362632	.064	2738070	6R	97.856	3.4 DCA
3.975 BB	76361	.029	43366	7	.707	TRICHLOR
4.214 BB	76500	.020	29703	8	.394	TRICHLOR

TAL: 000001 00000007

TAL  
 TAL  
 RT

## **SCHEDULE 4.4.2**

### **CONVERTED PRODUCT SAMPLING/ ANALYTICAL PROCEDURE**

The following is the procedure for sampling DCPI trucks while unloading:

SOURCE: Unloading line into T-2208

PPE: Rubber safety shoes, rainsuit, rubber gloves, facemask with GMC canister, and hard hat.

#### **PROCEDURE:**

- a. The proper PPE for unloading a DCPI sea container should already be on. For sampling, a facemask with GMC canister should also be used. Test the nearest safety shower to ensure it is working properly.
- b. While the sea container is emptying into T-2208, open the sample valve in the transfer line and fill a 4oz sample bottle. Close the valve when the bottle is full.
- c. Cap the sample bottle tightly and carry to the lab.

HOUSEKEEPING: Let any spills solidify, and then scrape up the solid material and place in a properly labeled hazardous waste drum. Complete the cleanup by scrubbing the area with hot, soapy water and rinsing with water.

TA  
TAA  
Rt

**" DCPI Analytical Method "**

Revision A

Date \_\_\_\_\_

Approval - Lab Manager

**Procedure**

Set the Gas Chromatograph as specified in the Quick Reference Sheet. No method calibration is necessary. This method is a G.C. Area % analysis without factors.

**1. Analytical Conditions**

- A. HP 5890 Gas Chromatograph and HP 3396 Integrator
- B. Column - 30 meter by 530 micron by 1.5 micron film thickness of 5% Phenylmethylsilicone.
- C. Injector/Detector - 200/250 deg. C
- D. Pressure 10 psi He.
- E. Temperature: 120 - 170 deg. C at 25 deg/min. after 2 min. initial hold.

**2. Sample Analysis**

Melt the DCPI at 50 deg. C prior to analysis. Stir with a glass stirring rod until well mixed.

- A. Add 6-8 pipet drops of the molten DCPI into a dry 4 ml. injection vial. Add 4 mls. of DRY HPLC grade Methylene Chloride to the vial, cap and mix well. Analyze immediately. There must be no moisture present when the sample is mixed. The  $\text{MeCl}_2$  must be dry.
- B. Make 2 - 1 ul injections at the method conditions and average the results. Record the results on the Raw Material Record and inform shift supervision.

TH  
J. S. A  
JL



### 3. Notes

A. If significant solids are noted in the bottom of sample containers, this indicates the presence of the urea, dimers, trimers and oligimers that are produced with excessive heat and moisture contamination. These do not solubilize and even if they do will not chromatograph well.

Therefore the best results are achieved when the melt of DCPI is a crystal clear material with no turbidity noted.

B. If the results are non-conforming follow GLP-3.

C. Report - % DCPI

TH  
D.P.  
set

Analytical Method - DIR-1

09-57-1

" DCPI Analytical Method "

Revision A

Page 2 of 2

Method " DCPI "  
D-001

54- chlorophenyl isocyanate	
1,2,4 trichloro benzene	
3,4 DCPI	
2,3 DCPI	
Non identifiers	

NAME DC

NAME

NAME	TYPE	WELTH	NAME
1.0	PF	0.000	0.0176
1.0	PF	0.000	0.0176
1.0	PF	0.001	0.0176
1.0	PF	0.000	0.0176
1.0	PF	0.000	0.0176
1.0	PF	0.000	0.0176
1.0	PF	0.000	0.0176
1.0	PF	0.000	0.0176

NAME

NAME

The  
DAA  
Rt

## **SCHEDULE 5.2.1**

### **CONVERSION FEE ADJUSTMENT PROVISIONS**

Effective January 1, 2000 and as of each January 1 and July 1 thereafter during the term of this Agreement, conversion fees as set forth in Section 5.1 shall be adjusted in accordance with changes in Seller's actual production costs, in accordance with the following index:

<u>Cost</u>	<u>Weight (%)</u>
Chlorine	28
Natural gas	12
Direct labor	32
Waste Disposal	28

NOTE: Base Index = 100 reflects average costs for the third quarter of 1998.

Conversion fee adjustments shall be made on the basis of actual PPG cost changes in accordance with the above index, during the calendar quarter before the preceding calendar quarter prior to the effective date of the conversion fee adjustment, as compared to the base index. For example, conversion fees effective July 1, 2000 shall be based on the average costs for the first quarter of 2000 as compared with the base index. Similarly, conversion fees effective January 1, 2001 shall be based on a comparison of costs for the third quarter of 2000 compared with the base index.

TV  
JL  
JH